

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

EDWIN ALLEN STOLTENBERG

Plaintiff,

v.

TROY CLARK, *et al.*,

Defendants.

Case No. 3:20-cv-00267-JMK

ORDER RE: MOTION TO DISMISS AT DOCKET 89

At Docket 89, Defendants Clark, McGraw, and Vik (“Federal Defendants”) have filed a *Motion to Dismiss*. Federal Defendants move to dismiss pursuant to Rule 12(b)(6) of Federal Civil Procedure.¹

Under Rule 12(b)(6), a defendant may move to dismiss a complaint for failure to state a claim upon which relief can be granted. Plainly, this means that a defendant argues that even if everything in the complaint is true, the defendant did not violate the law. To determine whether a complaint states a valid claim for relief, courts consider whether the complaint contains sufficient factual matter that, if accepted as true, “state[s] a claim to relief that is plausible on its face.”² In

¹ Docket 89 at 5–7.

² *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). In making this determination, a court may consider “materials that are submitted with and attached to the Complaint.” *United States v. Corinthian Colleges*, 655 F.3d 984, 999 (9th Cir. 2011) (citing *Lee v. L.A.*, 250 F.3d 668, 688 (9th Cir. 2001)).

conducting its review, a court must liberally construe a self-represented plaintiff's pleading and give the plaintiff the benefit of the doubt.³ The Court resolves a motion under 12(b)(6) only on the pleadings before it; therefore, no additional evidence may be submitted to defend those arguments.

Local Civil Rule 7.4 requires that unless otherwise ordered, opposition memoranda must not exceed 35 pages or 10,000 words.

IT IS THEREFORE ORDERED:

1. The Court recognizes that an additional motion to dismiss from Defendant United States Marshal Service is pending at Docket 81; therefore, enlarged deadlines are appropriate here.
2. Plaintiff has until on or before **60 days after the date of this order** to file any opposition to Defendants' *Motion to Dismiss* at Docket 89
3. Defendant has until **30 days** after service of the Plaintiff's opposition to serve and file a reply.

DATED this 23rd day of March, 2023, at Anchorage, Alaska.

/s/ Joshua M. Kindred
JOSHUA M. KINDRED
UNITED STATES DISTRICT JUDGE

³ See *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (citing *Bretz v. Kelman*, 773 F.2d 1026, 1027 n.1 (9th Cir. 1985) (en banc)).